

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5218 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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LALTAPRASAD RAJPUT

Versus

STAPALSINH L CHAUHAN

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Appearance:

MR MAHENDRA K PATEL for Petitioners

MR CB DASTOOR for Respondent No. 1

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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 08/02/99

ORAL JUDGEMENT

Present petitioners are the original accused against whom present respondent No.1-original complainant has filed one criminal complaint before the Metropolitan Magistrate, Court No.20, which was registered as Criminal Case No.1605 of 1997. After noting down the verification of the complainant, Court has issued process on

29-12-1997 under sec.500 of Indian Penal Code against the present petitioners against which, the present application is preferred under sec.482 of Cr.P.C. for quashing and setting aside the said complaint.

2. I have heard learned counsel for the petitioners, Mr.Mahendra I. Patel, learned counsel for the respondent No.1, Mr.C.B.Dastoor and learned APP for the State, Mr.K.P. Raval.

3. It is the say of the original complainant-Satpalsinh L. Chauhan that the present petitioners and the original complainant belong to same community and engagement of daughter present petitioner No.1 took place with son of original complainant, but after some time, the said betrothel came to an end. According to the complainant, this has resulted in maligning his reputation in the society and also in the community for which, present petitioners are responsible. Therefore, he has filed the present complaint on which, learned Metropolitan Magistrate has issued the process under sec.500 of IPC.

4. On going through the complaint, which is produced at Annexure-A to these proceedings, I personally feel that it is nothing but misuse of the process of law by the complainant. It is not the way in which the complainant should settle his grievance. When complaint has been filed before the Court below, it is the duty of the concerned Judge to verify and apply his mind before issuance of process to see that no innocent persons are directly or indirectly dragged in false litigations. He should also be much more vigilant in seeing that no injustice be done to the parties and the persons should not be encouraged in settling their grievances through misuse of process of law. Therefore, I am of the view that present complaint has been maliciously instituted by the complainant with an ulterior motive for imposing vengeance on the petitioners-accused, who are admittedly staying at Ferozabad in Uttar Pradesh, with a view to injure them due to private and personal envy.

5. Under these circumstances, the present complaint being Criminal Case No.1605 of 1997 dated 29-12-1997 filed against the petitioners is quashed and set aside. There shall be no order as to costs.

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